

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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	)	
IN RE: PHARMACEUTICAL INDUSTRY	)	
AVERAGE WHOLESALE PRICE	)	
LITIGATION	)	MDL NO. 1456
	)	
	)	CIVIL ACTION: 01-CV-12257-PBS
	)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO:	)	
	)	
<i>State of California, et al. v.</i>	)	
<i>Abbott Laboratories, Inc. et al.,</i>	)	
CIVIL ACTION NO. 1:03-CV-11226-PBS	)	
	)	

**STIPULATED MOTION FOR ORDER PERMITTING DEPOSITION OF HARVEY  
WEINTRAUB**

Defendants Warrick Pharmaceuticals Corporation ("Warrick"), Schering-Plough Corporation ("Schering"), Plaintiffs, State of California, and Relator Ven-a-Care of the Florida Keys, Inc., through their undersigned counsel, hereby move for the entry of an order permitting the taking of the deposition of Harvey Weintraub for purposes of discovery in the above-referenced action. In support of this motion, Warrick, Schering, Plaintiffs and Relator state as follows:

1. On April 12, 2006 Counsel for Warrick and Schering notified Plaintiffs of a scheduled deposition of former Warrick Vice President Harvey Weintraub. An accompanying letter stated that Mr. Weintraub is 77 years old, has a skeletal problem that prevents him from sitting for extended periods without pain, and has Parkinson's disease. The letter indicates, that due to Mr. Weintraub's age and health, he may not be available in the future as a witness.

2. Pursuant to the stipulated Case Management Order No. 18 (Par. 6), Plaintiffs (State of California) and Defendants have been limited to conducting discovery in this matter

with third parties only (i.e. there is to be no discovery between Plaintiffs and Defendants pending the outcome of the Motions to Dismiss.)

3. In light of Mr. Weintraub's condition and in order to preserve his testimony in this matter, it is necessary, at this time, to take the deposition of Harvey Weintraub (proposed order attached).

WHEREFORE, the undersigned parties respectfully request that the Court enter an Order permitting the taking of the deposition of Harvey Weintraub.

Dated: April 28, 2006

/s/ Brien T. O'Connor  
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***Counsel for Relators***

**ORDER**

IT IS HEREBY ORDERED THAT the restraint on discovery between Plaintiffs and Defendants per CMO 18 are lifted for the purpose of taking the deposition of Harvey Weintraub.

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Patti B. Saris  
United States District Judge

**LOCAL RULE 7.1(A)(2) CERTIFICATION**

Pursuant to LR 7.1(A)(2), the undersigned counsel hereby certify that the parties have conferred in good faith to resolve the issues involved and, as a result, have filed this motion.

/s/ Timothy C. Foote  
Timothy C. Foote  
Deputy Attorney General  
State of California Department of Justice

**CERTIFICATE OF SERVICE**

I hereby certify that on April 28, 2006, I caused a true and correct copy of the foregoing to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL 1456.

/s/ Timothy C. Foote  
Timothy C. Foote  
Deputy Attorney General  
State of California Department of Justice